

Remarks

Claims 16, 18-26, and 28-30 are pending in this application. Claims 16, 18-26, and 28-30 now stand rejected. Claims 1-15, 17, and 27 have been cancelled.

Claim Rejections – 35 U.S.C. § 103

Claims 16, 18-26, and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over McEleney et al. (US 5,680,962), Durr et al. (US 5,997,889), McAtee et al. (US 5,607,980) and further in view of Knoll et al. (US 4,822,604) for the reasons set forth in the previous Office Action.

Applicant respectfully traverses the present rejection for the following reasons. The Office Action of April 20, 2010 (“the Office Action”) attempts to recreate the present invention by inappropriately combining McEleney et al., Durr et al., McAtee et al., and Knoll et al.

The Office Action tacitly admits that McEleney et al. does not teach treatment for psoriasis. The Office Action states the following with respect to McEleney:

In response to Applicant's argument, Applicant's claim is drawn toward a treatment for skin disorder, McEleney et al. teaches ingredients for topical use to treat sunburn (column 1, lines 14-22), which is a skin disorder.

Contrary to the assertions of the Office Action, McElenery et al. does not teach a composition for treating sunburn. Instead, McElenery et al. teaches a composition for a sunscreen which is, of course, used to prevent sunburn:

A lotion such as a sunscreen includes a pH indicator which colorizes the lotion until the lotion is applied to the human skin, whereinafter the colored lotion turns clear. A physiologically compatible pH indicator such as phenolphthalein is used which has a red appearance from pH 7.5+ and which has a clear appearance from about pH 7.0 to 7.5; the general pH range of

the skin. **The invention is suitable for use in any lotion, gel, mousse or medication that is best applied in an even and uniform manner to the skin.** Accordingly, one preferred use of the invention is in UV-protecting sunscreens so that a user can ensure even distribution of the sunscreen on the body. In certain aspects of the invention, a cap houses the pH indicator and attaches to a container of the lotion, e.g.; a sunscreen. The pH indicator mixes with the lotion as it is applied to the skin. **The invention further provides methods of manufacturing sunscreens and the like with a pH indicator that turns substantially colorless upon prolonged contact with the skin.**

McElenery et al., Abstract (*Emphasis Added*)

McElenery et al. states that its composition may be combined with a “medication.” It is clear that McElenery et al. does not consider itself to be a composition for treating a condition. Preventing sunburn and/or providing a means of applying a lotion in an even manner are not methods of treating a condition. Therefore, the combination of McElenery et al. with the other references of record to arrive at a composition for treating a skin condition is ill-conceived. It should also be pointed out that the Office Action citation to col. 1, ll. 14-22 of McEleney merely provides background with respect to sunburn and says nothing about the nature of the invention of McElenery et al.

It should also be appreciated that cation chloride salts, such as ammonium chloride, are used for many other purposes and there are many patents prior to McEleney, such as Bergmann (US 5,456,863, 1/10/1995). Typical, prior art uses of ammonium chloride are in shampoos. Therefore, it is different using ammonium chloride for therapeutic skin use or using as one of the base ingredients for some other purpose. Moreover, McEleney uses vanilla as a fragrance instead of an active ingredient.

The combination of McEleney et al. with Knoll et al., Durr et al., and McAtee et al. is not appropriate. Knoll et al. teaches a clear therapeutic care composition having a low pH and is useful in the local treatment of psoriasis of the scalp (Abstract) with 1.00%, 1.50%, 0.75% ammonium chloride (col. 4, l. 43) and keratolytic stabilizing agent (col. 5, l. 8), pH range of about 3.0 – 6.5 (claim 3). Durr et al. teaches the use of vanilla only as a

fragrance (col. 4, ll. 43-45) and does not claim any therapeutic activity for vanilla. Applicant's use of these ingredients is therapeutic. McAttee et al. teaches a composition having cationic surfactants. However, most cleansing liquids contain surfactants as a general ingredient. A surfactant alone, when not combined with other ingredients, does not have any therapeutic value. Since McElenery et al. does not disclose a therapeutic composition, it is completely improper to graft components and ranges from Knoll et al., Durr et al., and McAttee et al. onto McElenery et al.

Notwithstanding the argument set forth above, Applicant respectfully disagrees with the Examiner's description of sunburn as a "skin disorder." The Mayo Clinic provides the following definition of sunburn:

A sunburn is reddening of the skin that occurs after you are exposed to the sun or other ultraviolet light.

Similarly, the NIH provides the following definition:

Sunburn is skin damage caused by ultraviolet (UV) rays in sunlight. With too much exposure to UV light, your skin overheats and becomes red and painful, and may later peel or blister.

It should be evident that sunburn is caused by exposure to the sun, intense light or UV light and as such does not represent a disorder. It is also clear that sunburn can be prevented. Therefore, a comparison of sunburn and psoriasis is not appropriate.

Accordingly, claims 16, 18-26, and 28-30 are allowable under 35 U.S.C. § 103(a) over McEleney et al., Durr et al., McAttee et al. and further in view of Knoll et al.

Conclusion

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all

formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his earliest convenience.

The Petition fee of \$65.00 is being charged to Deposit Account No. 02-3978 via electronic authorization submitted concurrently herewith. Please charge any fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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